

# EXHIBIT 1

EXHIBIT 1

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Stamford, Connecticut  
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ssjr.com

+1 203 324-6155 TEL  
+1 203 327-1096 FAX



February 2, 2016

VIA EMAIL AND FEDEX TRACKING NO. **7755 5200 2516**  
[Producers@HackettMiller.com](mailto:Producers@HackettMiller.com)

Sandy Hackett & Lisa Dawn Miller  
Hackett Miller Company, Inc.  
18375 Venutra Blvd 4000  
Tarzana, California 91356


Re: Your File Not Known - SSJR File 06712-I0014A  
Investigation of Mandropause Musical Comedy and TM Ser. No 86/796396 by  
Hackett Miller Company, Inc.

Dear Mr. Hackett and Ms. Miller:

We represent Spotlight Rights, LLC ("Spotlight") and GFour Productions, LLC (GFour) in Intellectual Property Matters. GFour is the exclusive licensee of certain Intellectual Property rights owned by Spotlight.

As you know from attending GFour's award winning Las Vegas production, MENOPAUSE THE MUSICAL, GFour has expended considerable resources marketing and promoting it's highly successful show. Similarly, Spotlight has expended considerable resources developing a worldwide portfolio of trademark and copyright protection that covers GFour's exclusive production.

Spotlight is the owner of a family of MENOPAUSE trademarks including U.S Trademark

Reg. Nos. 2,962,504; 3,354,640; 3,250,841 for the mark  as applied to a variety of goods and services including production and exhibition of stage plays and musical shows and associated merchandise. Additional registrations include Reg. No. 3,171,313 for MENOPAUSE THE MUSICAL as applied to a variety of clothing items and Reg. Nos. 3,171,319; 3,354,641; 3,176,773 and 3,274,477 for THE HILARIOUS CELEBRATION OF WOMEN AND THE CHANGE as applied to a variety of goods and services including our client's musical production. All of these registrations are incontestable.

Our client also owns trade dress rights in connection with the display of its trademarks, advertising and show.

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Spotlight is also the owner of U.S Copyright Registration No. PAu00253588, which became effective June 20, 2000 and covers the musical.

GFour is the exclusive licensee of these and other rights owned by Spotlight and infringement of these rights is causing damage to both GFour and Spotlight.

Trademark Infringement in the U.S.

It has come to our attention that you are using the MANDROPAUSE name in the United States for your show, products and services, e.g., see [www.mandropause.com](http://www.mandropause.com). Specifically, MANDROPAUSE is used with emphasis and your website claims trademark rights to this word as applied to a musical comedy as evidenced by the screenshot at Exhibit A which shows "TM" next to "MANDROPAUSE", which name is also used in a sloped stylization. In addition, we have become aware that you have filed Trademark Application Ser. No. 86/796396 for a trademark which displays MANDROPAUSE with emphasis.

We are concerned that both companies provide identical goods and services via the same marketing channels, specifically, merchandising in connection with live theater productions. As you know from attending our client's show in Las Vegas, our client's audience is the middle age and senior demographic. Although the subject matter of our client's show involves four women singing comical songs about menopause, numerous men also attend to partake in the comedy of shared experiences. Your show similarly involves four men singing songs about the male equivalent to menopause. This is evidenced in the enclosed press release (Exhibit B) and website printouts (Exhibit C). Some of the similarities between our client's show and your show include:

- Almost identical titles and trademarks with same meaning:

MENOPAUSE THE MUSICAL v. MANDROPAUSE A MUSICAL

- Both trademarks are displayed in sloped manner;
- Both are musical comedies;
- Both contain the same subject matter, specifically, "The Change";
- Both have 4 main characters. Both shows are based on the aging changes of 4 individuals. Our client's show has 4 main female characters and your show has 4 main male characters (Lenny, Gary, Larry and Norman);



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- Both shows joke about the same aging changes and topics, e.g., "hair loss", "senior discounts", weight struggles, exercise struggles, etc.

We believe that your choice of trademark and trade dress is so visually similar to our client's that your use was intended to cause confusion among consumers and trade off on the established good will of our client's trademark and trade dress, and constitutes false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a). Your use dilutes and diminishes our client's valuable trademark rights, and creates a likelihood of confusion in the marketplace.

We can only assume the similarities in the shows and your choice of a brand is based on your access to and knowledge of our client's production through attendance of the Las Vegas show.

It is the opinion of our client, with which we concur, that your use of the name MANDROPAUSE and similar trade dress in the United States amounts to trademark infringement in the least as the marks appear similar, sound similar, have the same meaning, same commercial impression and trade dress, and subject matter (albeit applied to different genders). This is a sufficient basis for causing consumer confusion. *Centraz Industries Inc. v. Spartan Chemical Co. Inc.*, 77 USPQ2d 1698, 1701 (TTAB 2006) (acknowledging that "there is no correct pronunciation of a trademark" and finding ISHINE (stylized) likely to be confused with ICE SHINE, both for floor-finishing preparations); *Kabushiki Kaisha Hattori Tokeiten v. Scuto*, 228 USPQ 461 (TTAB 1985) (SEYCOS and design for watches held likely to be confused with SEIKO for watches and clocks); *In re Great Lakes Canning, Inc.*, 227 USPQ 483 (TTAB 1985) (CAYNA (stylized) for soft drinks held likely to be confused with CANA for, *inter alia*, canned and frozen fruit and vegetable juices); *In re Energy Telecommunications & Electrical Association*, 222 USPQ 350 (TTAB 1983) (ENTELEC and design for association services in the telecommunication and energy industries held likely to be confused with INTELECT for conducting expositions for the electrical industry); *In re Cresco Mfg. Co.*, 138 USPQ 401 (TTAB 1963) (CRESCO and design for leather jackets held likely to be confused with KRESSCO for hosiery).

#### Unfair Competition

Your adoption and use of "MANDROPAUSE" is confusingly similar to our client's trademark for the purposes of trading upon the goodwill represented by said mark. This gives your services a sale-ability that they otherwise would not have. Such use is likely to cause confusion, mistake or deception as to the affiliation, connection or association of your company with our client, or as to the source, approval or sponsorship of our client's

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products and services. Your attendance of our client's show for the purposes of developing your own version is further evidence of this unfair competition.

Your use and registration of MANDROPAUSE is likely to cause confusion, mistake or to deceive purchasers as to the source of goods and inaccurately imply an association between your goods and services and those of our client. Your use and registration of your above referenced trademark application will dilute our client's valuable trademark. Therefore, your use of this mark constitutes an infringement of our client's trademark rights as well as unfair competition under federal law and is in violation of 15 U.S.C. 1125.

### Copyright

Our client is also concerned that your plans to premier the show in April/May are moving towards the path of willful Copyright infringement. Copyright infringement is found where the accused infringer has access to the copyrighted work and creates a work of substantial similarity or creates a derivative work. Access is often presumed based on similarity of the works, but in this case, we know you actually attended our client's production in Las Vegas and therefore had access.

Although there are some differences between our client's production and yours, the subject matter, style and structure appears to be based on our client's production. Both shows involve four people of different backgrounds in a stereotypical gender specific environment. Ours is four women of different backgrounds at a department store and yours is four men of different backgrounds at the gym. In both cases, the characters discuss, complain and provide musical comedy related to hormonal changes and getting older.

Although U.S. Copyright law provides the right to independent creation, you attended our client's show and created the male equivalent of it which tends to weigh against a finding of independent creation. This is especially true when your show uses similar structure, style and subject matter. Therefore, from what we are able to see in publicly available materials, you have likely created a derivative work in violation of 17 U.S.C. §§101, 106, 501-505.

### **Cease and Desist Demands**

Our client demands that you immediately cease all use of the name MANDROPAUSE including any and all variations and modify the show to avoid infringing our client's valuable copyright. Our client therefore requests your assurances that the following undertakings will be met:



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1. Refrain from selling, offering or advertising any services or products in the United States that bear the name MANDROPAUSE;
2. In the event you have incorporated or filed authorizations to do business with any State that include the name MANDROPAUSE, change the name with the appropriate Secretary of State office;
3. Remove and destroy any and all signage, posters, marketing materials and others in California or any other State(s);
4. Withdraw all advertisements in print and via third parties;
5. Change any and all letterhead and marketing materials distributed in the U.S.
6. Cancel the April and May showings or create a musical that is not based on our client's production;
7. Remove the trademark from your websites and third party websites.
8. Transfer all web domains used in connection with the proposed show to our client, including mandropause.com.
9. Expressly Abandon U.S. Trademark Application Ser. No. 86/796396

*Willful Infringement*

Please also be advised that any and all future use of the name MANDROPAUSE and/or showings of associated musical production in the United States shall be considered willful infringement under trademark and/or copyright law and subject to enhanced penalties, including without limitation, treble damages, recovery of profits, statutory damages and assessment of attorney fees. 15 U.S.C. §1117, 17 U.S.C. §501-505.

From what we can tell from your website, the first showings of MANDROPAUSE will happen April 29-May 1, 2016 and May 6-8, 2016. Should these showings or others go on as scheduled, you will be moving forward as a willful infringer, subjecting you to enhanced damages.

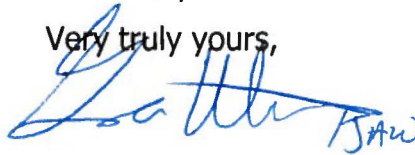
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Our client is further entitled to preliminary and permanent injunctive relief.

This is not a complete statement of our clients' rights and defenses all of which are respectfully reserved.

Please respond or have your attorney respond within two weeks, by **February 16, 2016**, or our clients shall consider any and all further steps to enforce its rights.

Very truly yours,



Gene S. Winter  
gwinter@ssjr.com

GSW:JAW:AMP  
Enclosure

## **Exhibit A**





## **Exhibit B**

UNITED STATES ==

THE WORLD □

TV/FILM & MORE 🔊

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# Hackett Miller Company to Debut New Male Menopause Themed Musical Comedy

## MANDROPAUSE

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While the World Health Organization takes its sweet time debating whether "Andropause" also known as "male menopause" is an officially recognized medical condition, **Sandy Hackett** and **Lisa Dawn Miller** creators and stars of the long-running global touring musical sensation "**Sandy Hackett's Rat Pack Show**" are having a ball sharing the joys, pains and grand musical possibilities of the concept in their funny, yet poignant new, cleverly-titled original musical, "**Mandropause**."

Produced by the **Hackett Miller Company, Inc.**, the show is directed by Hackett from a book by himself and Miller, who

also play lead roles in the production. Of the 20 featured songs, 10 were penned by Miller along with her longtime producing and now, songwriting partner **Mark Matson**. Miller has long been committed throughout her professional and personal life to celebrating the legacy of her father, legendary Motown songwriter **Ron Miller**, and includes four previously unreleased songs of his in the show.

Six other songs, penned in the classic Gilbert and Sullivan style, are revamped versions of pieces originally written by **Ron Miller** and his wife (also Lisa's mother) Aurora Miller, who was also a Motown songwriter and is a classical

VIDEO: Quentin Tarantino Talks Future Career in Theater; Wants to Bring HATEFUL 8 to Stage



pianist and soprano. The Millers originally wrote these pieces for a musical that went unproduced, and Lisa, inspired by the vibe of these tunes, wrote new lyrics to her mother's music.

The story of "Mandropause" revolves around four male characters ranging in age from 45-55 who are working out at the same gym and begin discussing how they are dealing with the "change of life." Larry, a plumber, is the "Mr. Macho" of the group who is in denial that he is experiencing male menopause. Detailing all of his medical maladies, his doctors discuss the results of his latest physical exam via the clever **Ron Miller** song, "Outside of That, You're Doing Fine!" the title of the song is also a tag line on the musical's website ([www.mandropause.com](http://www.mandropause.com)).

More accepting of his mid-life condition is Lenny, a devoted family man. Gary is an egotistical lawyer with a potbelly who sees muscles and a six-pack when he looks in the mirror. Hackett plays Norman, a gay man who is not only unafraid to accept the aging process but embraces it and wants to help his gym mates do the same. Lisa plays two roles with very opposite personalities, the wives of Lenny and Larry.

"Though male menopause is often described as the result of a gradual drop in testosterone levels," she says, "we have found that middle aged men have a wide range of physical and emotional issues, from hearing loss, needing reading glasses, hair loss, an overall slowing down in energy and fears related to purpose and legacy and worrying about being able to continue to provide for their loved ones.

"We wrote the song 'Andropausal Man' about some of things men might go through during male menopause," Lisa adds. "The lyrics are sometimes funny, yes, but we want to celebrate the aging process and turn it into a positive."

Among all the joys, pains and life lessons, there are also beautiful, subtle references to the families of both Sandy and Lisa that help celebrate their legacy. "Lenny" is for Leonard, the real name of Sandy's father, legendary comedian and actor **Buddy Hackett**. "Norman" was **Ron Miller's** middle name. Lisa's character, "Aurora" (Lenny's wife), is named after her mother Aurora Miller, while her character "Sylvia" (Larry's wife) is named for **Mark Matson's** mother.

"Legacy plays an important part of 'Mandropause' and every show Sandy and I do," says Lisa. "Sandy's family has been in the business of making people laugh and mine has been in the business of making people cry. It's the perfect combination. On a personal level, I welcome this opportunity to stretch both as an actress and as a songwriter. I learned so much from my parents about musical theatre writing, and the original songs Mark and I wrote truly reflect their enduring influence."

## LOS ANGELES THEATER

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1,473 others like  
this.



<http://www.mandropause.com/press/bww.html>





## **Exhibit C**



Have you heard of "menopause," when women go through the "change of life?" Well, men go

through the "change" too! Never heard of it? It's called andropause! Hair loss. Hearing loss...  
what? Weight gain.

---

## **an-dro-pause \ 'an-drō-pawz \**

noun

the period, usually occurring between the ages of 45 and 55, during which a man's testosterone levels may fall, leading to a reduction in vigor and sexual drive Also called male menopause

## **man-dro-pause \ ' [fuhn-ee] \ uh-rij-uh-nl [myoo-zik] \**

Musical Comedy

from the producers that brought you the show Broadway World called, "The Best Show this Year in Kansas City!" -Kauffman Center for the Performing Arts, "Sandy Hackett's Rat Pack Show," comes a new, original comedy musical, "Mandropause" - because men go through the "change" too!

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**Introducing the NEW  
Musical Comedy...**

**MANDROPAUSE!**



Meet Lenny, Gary, Larry and Norman. Four men - one common thread...getting old. This new, original musical comedy is funny and honest as it explores and celebrates men going through middle age.

Starring Sandy Hackett, son of legendary comedian, Buddy Hackett and Lisa Dawn Miller, daughter of legendary songwriter, Ron Miller. With a book by Hackett and Miller, you'll be sure to laugh... and cry.

LISTEN TO MUSIC CLIPS FROM MANDROPAUSE!

**PLAYLIST** ◀

[READ PRESS RELEASE](#)





# -PRODUCED BY-

SANDY HACKETT

LISA DAWN MILLER

MARK MATSON

BOOK BY  
LISA DAWN MILLER & SANDY HACKETT

ORIGINAL SONGS BY  
LISA DAWN MILLER, RON MILLER, AURORA MILLER & MARK MATSON

DIRECTED BY  
SANDY HACKETT

TECHNICAL DIRECTOR  
MARK MATSON

ART DIRECTOR  
JEANNE QUINN

BECOME PART OF THE MANDROPAUSE COMMUNITY!



BOOKING

**PUBLICIST**  
Chrissy Sutphin  
CAS Public Relations



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